

**City Council Minutes – December 3, 2002**

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, December 3, 2002. The Councilmembers of the City of Topeka met in regular session at 7:00 P.M., with the following Councilmembers present: Pomeroy, Alcalá, Lane, Dunn, Hecht, Duffy, Stubbs and Price -8. Mayor Felker presided -1. Absent: Councilmember Hill -1.

AFTER THE MEETING was called to order, Councilmember Duffy asked for a moment of silent meditation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

THE CONSENT AGENDA was presented as follows:

Minutes of the Regular Meeting of November 26, 2002, were presented.

APPLICATIONS for a Cereal Malt Beverage License, bearing the approval of the Chief of Police and City Inspectors for the following:

Brass Rail Bar  
401 E Emmett

The Chatterbox  
2121 SE 6<sup>th</sup> Street

El Coyote  
1405 SW 6<sup>th</sup> Street

Godfather's Pizza #17016  
1835 N Topeka Blvd

Grovers Smokehouse  
1217 SW Gage Blvd

Hunam Restaurant  
5005 W 29<sup>th</sup> Street

Ichabod Laundra Bar  
1501 W 21<sup>st</sup> Street

Lupita's Mexican Restaurant  
732 S Kansas Avenue

Lynn's Place  
2212 Sardou

Miami Tavern & Grill  
3026 NE Seward

North Topeka Golf Center  
350 NE HWY 24

Our Lady of Guadalupe Church  
1008 NE Atchison

Pizza Hut #2660  
2007 SE 29<sup>th</sup> Street

Pizza Hut #2658  
2800 SW Fairlawn Road

(Cereal Malt Beverage License applications continued)

Pizza Parlor  
1919 NE Seward

Porubsky's  
508 Sardou

Sasnak North  
1834 N Topeka Blvd

Seabrook Tavern  
2105 Mission

The Spot Tavern  
2202 Buchanan

Taco Tico  
2102 N Topeka Blvd

Topeka Public Golf Course  
2533 SW Urish Road

Town & Country Bar  
3738 SW Topeka Blvd

APPLICATIONS for a Dance Hall License, bearing the approval of the Chief of Police and City Inspectors for the following:

Kansas Expocentre  
One Expocentre Drive

Sasnak North Inc  
1834 N Topeka Blvd

Town & Country Bar  
3738 SW Topeka Blvd

APPLICATIONS for a Security Company License, bearing the approval of the Chief of Police and City Inspectors for Uniguard Security, L.L.C., Topeka, Kansas.

Councilmember Dunn moved to approve the consent agenda. The motion seconded by Councilmember Stubbs carried unanimously. (8-0-0)

A PROJECT BUDGET in the amount of \$70,190 and ORDINANCE NO. 17923 introduced by Mayor Harry Felker, authorizing Improvement Project No. 14110-00, which provides for the improvement of the existing electronic traffic control system as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading November 26, 2002, was again presented.

Mayor Felker gave an opportunity for anyone present to speak. No one appeared.

Councilmember Dunn moved to accept the project budget and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs and Price -8. Absent: Councilmember Hill -1.

A PROJECT BUDGET in the amount of \$75,000 and ORDINANCE NO. 17924 introduced by Mayor Harry Felker, authorizing Improvement Project 30226-00, which provides for the design and installation of a new lighting system for the parking lot and the gymnasium at Crestview, Oakland, Garfield, and Hillcrest Community Centers as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, placed on first reading November 26, 2002, was again presented.

Mayor Felker gave an opportunity for anyone present to speak. No one appeared.

Councilmember Lane moved to accept the project budget and adopt the ordinance. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

The ordinance was adopted on roll call vote as follows: Ayes: Councilmembers Pomeroy, Alcala, Lane, Dunn, Hecht, Duffy, Stubbs and Price -8. Absent: Councilmember Hill -1.

RESOLUTION NO. 7298 introduced by Councilmember John Alcala relating to the application process of Transient Guest Tax funds to be distributed by the Topeka City Council was presented.

Councilmember Alcala gave the committee report and stated that he disagrees with the three year limitation for receiving funds.

Councilmember Stubbs stated that she would like to further explain lines 57 and 59. She stated that dollars are not entitlements and by the end of the third year they need to look for funding from other sources, however, this would not prohibit the Council from making exceptions if they wanted.

Brenden Long, City Attorney noted that the City Council needs to fill in the blanks on page 4, line 85 and 90 concerning the appointment of administrative officials and he recommended using the Chief Administrative Officer or his designee.

Councilmember Stubbs commented on page 2, concerning how the committee would be formatted and the intent of assigning specific organizations a representative that understands the business side of the organization and has a strong ability to drive the funds.

Councilmember Price inquired on the length of the term they would serve.

Councilmember Alcalá suggested replacing the appointees each year.

Councilmember Price moved to include a one-year term for the appointee and add the Chief Administrative Officer or designee to lines 85 and 91. The motion was seconded by Councilmember Alcalá.

Councilmember Dunn asked if the appointee would be required to live within the Councilmember's district.

Councilmember Price stated that consideration for this position should not be limited to one district because they represent the entire city.

Councilmember Dunn expressed concerns on the importance of having a diverse committee structure.

Councilmember Stubbs stated that she is opposed to having a residency requirement because there are guidelines that have been established that give ample opportunity to construct a diverse committee.

Councilmember Lane moved that the representative could either reside or work in the Council District. The motion was seconded by Councilmember Alcalá.

Councilmember Price called the question.

Councilmember Price withdrew the call.

Councilmember Hecht stated that she would like the discretion as a Councilmember to appoint a representative of a committee with no constraints.

Councilmember Alcalá stated that he supports the person being chosen at random.

The parliamentarian stated that each amendment needs to be voted on separately.

Councilmember Lane withdrew his motion.

The motion to include a one-year term for the appointee and to add the words "Chief Administrative Officer" or "designee" to lines 85 and 91 carried unanimously. (8-0-0)

The parliamentarian stated that the Council must adopt the committee report first and then make amendments to the document.

Councilmember Dunn moved to adopt the committee report. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

Councilmember Price moved to include a one-year term for the appointee and add the words "Chief Administrative Officer" or "designee" to lines 85 and 91. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

Councilmember Stubbs moved to put back in the language that was stricken from lines 57 through 59. The motion was seconded by Councilmember Price.

Councilmember Hecht suggested that they include a phrase that allows exception to the policy.

Councilmember Alcalá stated that when an exception is made for one they must be made for all and therefore, he will not support the motion.

Councilmember Pomeroy suggested that if an organization needs funding beyond three years to move them to a different fund with their own line item. He asked if the organizations are considered retroactive if they have already been involved in this funding in the last one to two years.

In response the parliamentarian stated that this does not make them retroactive and the language within the resolution clarifies that applications will begin in January 2003 with the upcoming budget year.

Councilmember Alcalá stated that he opposes the motion because some of the events such as, the Sunflower Games and the Fiesta generate a lot of funds for the Transient Guest tax fund.

The motion to put back the language that was stricken from lines 57 through 59 carried. Councilmembers Alcalá, Lane and Dunn voted "no". (5-3-0)

Councilmember Alcalá moved to amend page 3, line 59 to include "After (3) three-years the event or organization may put in a request for further funding for the one year waiting period through the budgetary process." The motion was seconded by Councilmember Lane.

Councilmember Stubbs stated she is opposed to the motion because the applicant already has the option to request further funding if needed.

The motion to amend line 59 carried. Councilmembers Duffy, Stubbs and Price voted "no". (5-3-0)

Councilmember Lane moved to make an amendment to page 2, line 41 to include "The committee members shall be required to be residents of the city." The motion seconded by Councilmember Dunn carried unanimously. (8-0-0)

Councilmember Alcala moved to adopt the resolution as amended. The motion seconded by Councilmember Lane carried unanimously. (8-0-0)

A COMMUNICATION requesting approval of a Worker's Compensation settlement agreement with Ken Eaton in the amount of \$12,991.86 was presented.

Brenden Long explained the settlement and stated that it would close all remaining claims in this case.

Councilmember Dunn moved to accept the claim. The motion was seconded by Councilmember Lane.

David Price spoke in opposition of the claim.

The motion to approve the claim failed. Councilmembers Hecht, Duffy, Stubbs and Price voted "no". (4-4-0)

RESOLUTION NO. 7299 introduced by Mayor Harry Felker cancelling the Council meeting of December 24, 2002, was presented.

Councilmember Lane moved to adopt the resolution. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcala and Dunn voted "no". (6-2-0)

A COMMUNICATION from Housing and Neighborhood Development requesting approval of recommended allocations of \$83,000 from the Emergency Shelter Grant fund, \$574,000 from the Youth & Social Services Grant fund, and \$200,000 from the Neighborhood Empowerment Grant fund for 2003 was presented.

Randy Speaker, Director of Housing and Neighborhood Development gave the staff report. He explained the 2003 Consolidated Action Plan:

- A. A five year plan required for allocating HUD funds
- B. Opportunity for Topeka to identify its current conditions, needs, trends, and general priorities
- C. Action plans presented yearly to HUD
- D. 2003 is the third year of Topeka's five year plan
- E. 2003 Action Plan opportunities for public comments
- F. CDAC role and participation

In conclusion, he explained the procurement process, proposed allocations and the options and actions the City Council can take in this process.

Councilmember Alcala asked for clarification on a letter he received from the Monroe NIA.

Randy Speaker stated that the Monroe NIA requested funding for planning activities which are not eligible activities for the Empowerment Fund Grants.

Councilmember Lane stated that he has never been approached by or made any kind of agreement with the Monroe NIA, and stated that the entire letter was constructed of false information.

Councilmember Alcala asked the City Attorney or Randy Speaker to respond to the letter and send a copy to everyone that received it.

Randy Crandall, review committee member for the Emergency Shelter Grants stated that there were eight applicants that applied for the funding, however, only six of the agencies qualified. He explained the review committee criteria and guidelines that the agencies must follow and what the funds would be used for.



Councilmember Hecht stated that she would not vote on Emergency Shelter Grants because of her involvement with the Battered Women's Task Force.

Councilmember Stubbs asked for a brief synopsis of each agency that was recommended for funding to be included in future Council packets.

Jim Olson, review committee member for Youth and Social Service Grants stated that there were a total of fifty applicants and explained their process in recommending allocations.

Marty Kane, review committee member for Empowerment Fund Grants explained their process in recommending funds.

Councilmember Duffy inquired on why this body of projects has requested not to pay city policy fees when they are federal funded projects.

In response, Randy Speaker stated that this was an option presented by the Public Works Department. He explained that these projects still have to be contracted out and are not sure of the exact cost. If the projects run over the allocated amount elimination of processing fees would help tremendously. However, if the bids on the projects bid in lower than expected then they would be able to pay for some, if not all of the city policy fees.

Councilmember Duffy asked why they do not set aside a small portion of the money specifically for the fees instead of using street funds, which are desperately needed for street and sidewalk repair.

Mike McGee, Director of Public Works stated that they are researching several avenues to resolve this problem and will present a proposal to the Council at a later date. He also stated that they are considering using money leftover from snow removal, if any and up to \$60,000 for sidewalk projects in the NIA's.

Councilmember Dunn moved to accept the Emergency Shelter Fund Grants recommendation. The motion seconded by Councilmember Lane carried unanimously. (7-0-0)

Mike Donnelly, representative for the Big Brother Big Sister Association spoke in support of the communication and thanked the City of Topeka for their support.

Michael Bradley, Old Town Improvement Association, Grandpa's Garage Project spoke in support of the communication.

Paula Ferguson, Clinton Jones, Mike Dickson, Jr., Troy Fields, Herbert Ferguson, LaToya Fields, Shawn Grit, Charday Bell, Robert Hailey and Jerome Cooks spoke in support of funding the Stardusters Project.

Several Councilmembers expressed their support of the program and the positive influence it has on the community as a whole.

Councilmember Price asked if the program is going to receive the \$150,000 they requested and would it be possible to put together a list of projects that have not been funded in priority order for consideration by the Council.

Randy Speaker stated that the problems have been worked out with HUD and they will be receiving the \$150,000 they requested and they could generate a list by January 15, 2003.

Councilmember Dunn asked if there is any additional funding available for the Stardusters Program.

Randy Speaker stated that there are several potential funding sources within the HUD CDGB Program and he is confident that they could find additional funds from other projects and reprogrammed funds.

Several Councilmembers inquired on the financial breakdown of the increased funding request by the Stardusters Program.

Shirley Wischom, representative of the Stardusters Program stated that \$22,000 of the request is for youth wages.

Dan Nagengessen, Kansas Rural Center explained their program and the need for funding.

Jim Bullocks, President, Stardusters Program explained the importance of the program to the community. He stated that the program employs thirty-one kids in the summer and fifteen kids in the winter and statistics prove that this program works. They have a 100% high school graduation rate and 90% of the kids continue on to higher education.

David Owens spoke in support of allocating funds to the homeless.

Judy Thompson, Community Director of the Sunshine Connection requested a detailed breakdown of how their organization was rated. She also wanted to know why they did not receive any notice that they would not be receiving funds. She explained that the City of Topeka needs to support the mentally ill due to all of the State cutbacks and the City Council needs to become more involved and address this problem.

Dr. Richard Mattson, Kansas State University Horticulture Department expressed his concerns on the downfall of community programs in the City of Topeka and the importance of supporting all of the programs.

Councilmember Dunn moved to accept the committee's recommendation for the Youth & Social Services Grant and include a request that HND find funding for the Stardusters Program, Sunshine Connection and the Kansas Rural Center to the extent available. The motion was seconded by Councilmember Alcalá.

Councilmember Duffy asked that the question be divided.

Councilmember Stubbs asked if this is a decision that has to be made tonight. She would like more information distributed about the programs so that they can make an informed decision on allocating the funds.

Randy Speaker stated that the decision does not have to be made immediately and he would prefer a more detailed plan to follow when allocating the reprogrammed funds.

Councilmember Lane made a substitute motion to increase the Topeka's Common Ground Program by an additional \$5,000, allocate \$5,000 to the Sunshine Connection, and increase the Stardusters Program by an additional \$15,000, totaling \$25,000 taken from the general fund, with the stipulation that if there is reprogrammed funds available it will be used to pay back the general fund. The motion was seconded by Councilmember Dunn.

Councilmember Stubbs stated that she opposes the motion because she does not want to take money from the general fund until all of the reprogrammed funds are exhausted.

Councilmember Lane withdrew his motion. The second concurred.

Councilmember Hecht stated that she does not have enough information to support the motion to increase the funding of these three programs. She is concerned that these programs may not be the best choice to consider and is uncomfortable with undoing the committee's recommendations.

Councilmember Duffy stated that he agrees, and he is prepared to support the committee recommendations and does not feel that they have received enough information to make an informed decision concerning the other issues that have been raised. He stated that he would like to vote on the reprogrammed funds at a later time.

Councilmember Price stated that it is obvious that the need far exceeds the available funds, and he supports the committee's recommendations.

The motion to accept the committee report carried unanimously. (8-0-0)

The motion to increase the funding for the Stardusters Program, Sunshine Connection and the Kansas Rural Center failed. Councilmembers Pomeroy, Hecht, Duffy, Stubbs and Price voted "no". (3-5-0)

Councilmember Duffy moved to add \$10,000 for a contingency line of the Empowerment Fund Grant which reflects 5% contingency. He stated that he understood the figures for the Monroe Cushinberry Park Project of \$46,000 and the Friends Free State Project of \$26,500 were pretty firm so the contingency should be a proportional percentage from the other projects. The motion seconded by Councilmember Stubbs carried. Councilmembers Alcala, Lane and Dunn voted "no". (5-3-0)

Councilmember Duffy moved to accept the committee report as amended. The motion seconded by Councilmember Stubbs carried. Councilmember Dunn voted "no". (7-1-0)

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 20-foot wide alley right-of-way extending east of SW Lane Street, approximately 130 feet north of SW 8<sup>th</sup> Avenue, as dedicated by the plat of Horne's Addition, City of Topeka, Shawnee County, Kansas, was presented for first reading.

AN ORDINANCE introduced by Mayor Harry Felker relating to the vacation of a 20-foot wide alley right-of-way extending between SW Washburn Avenue and SW Lane Street, approximately 130 feet north of SW 8<sup>th</sup> Avenue, as dedicated by the plat of Horne's 2<sup>nd</sup> Addition, City of Topeka, Shawnee County, Kansas, was presented for first reading.

PRESENTATIONS BY MEMBERS OF THE COUNCIL, were presented.

Councilmember Pomeroy expressed appreciation that Doug Mays, a local delegate was elected Speaker of the House.

Councilmember Duffy announced a Public Health & Safety meeting scheduled on December 6, 2002 at 7:30 a.m. in the Council office conference room.

Mayor Felker commented on the JEDO Board.

PUBLIC COMMUNICATIONS AND COMMENTS, were presented.

No one appeared to speak under public comment.

NO FURTHER BUSINESS appearing the meeting was adjourned by unanimous consent at 11:00 p.m.

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Iris Walker  
City Clerk